



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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DIRECTV LATIN AMERICA, LLC, :

Plaintiff, :

-v.- :

PARK 610, LLC, CARLOS VICENTE AVILA, :  
ROBERTO TIMISTIT, CARLOS PRATOLA, and :  
DIEGO CLEMENTE, DOES 1 through 10, :

Defendants. :

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**GABRIEL W. GORENSTEIN, UNITED STATES MAGISTRATE JUDGE**

The defendants have moved to stay discovery in this matter. Where a party has sought to stay discovery, a court considers a number of factors including “the pendency of dispositive motions, potential prejudice to the party opposing the stay, the breadth of discovery sought, and the burden that would be imposed on the parties responding to the proposed discovery.” Ellington Credit Fund, Ltd. v. Select Portfolio Servs., Inc., 2009 WL 274483, at \*1 (S.D.N.Y. Feb. 3, 2009). Where a court has made a considered judgment on the merits of the motion, however, the strength of the motion to dismiss should be the factor of greatest importance. See generally Spencer Trask Software & Info. Servs., LLC v. RPost Int’l. Ltd., 206 F.R.D. 367, 368 (S.D.N.Y. 2002) (“stay of discovery should be granted where motion to dismiss is potentially dispositive, and appears to be not unfounded in the law”) (internal punctuation and citation omitted).

In light of the Report and Recommendation issued today, and considering the other factors relevant to a motion for a stay, the motion of Carlos Pratola and Diego Clemente for a stay of discovery (Docket # 155) is granted. The motion of Park 610, LLC, Carlos Vicente Avila, and Roberto Timistit for a stay of discovery (Docket #157) is denied.

A conference to discuss a schedule for discovery will take place on December 11, 2009 at 11:00 a.m. in Courtroom 17-A, 500 Pearl Street, New York, New York.

SO ORDERED.

Dated: November 23, 2009  
New York, New York

  
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GABRIEL W. GORENSTEIN  
United States Magistrate Judge